EX PARTE OR LATE FILED

September 6, 2001

Ms. Magalie Roman Salas, Attorney at Law
Secretary, Federal Communications Commission
445-12th Street Lobby

HAND DELIVERED
(to designated counter at TW-A325)

Re: Phase 2 of the Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers. (DA 01-1403)

Ex Parte Presentation in Docket 01-199
(An original and one copy having been presented to the Secretary and a copy presented to Commissioner Martin's Office)

Dear Secretary Salas:

The purpose of this letter is to describe the *ex parte* presentation made to Commissioner Martin and Sam Feder of his office. The presentation was made on September 5, 2001, on behalf of the National Association of State Consumer Utility Advocates (NASUCA) as represented by its Executive Director, Charles Acquard, and its consultant attorney, Kathleen F. O'Reilly.

It was explained that NASUCA is opposed to the Commission's further repeal of accounting and reporting rules or the elimination of any of the new accounting and reporting rules set forth in the Attachment to the Public Notice (Attachment) issued on June 8, 2001. Copies of various comments filed by NASUCA in this proceeding were presented.

- In response to questions posed by Commissioner Martin, it was explained that NASUCA does not have a specific position with respect to the accounting rules relevant to an audit of the RBOCs conducted by the Commission auditors and released in 1997. (Specifically that audit was discussed in reference to the accounting requirement of continuously maintaining records related to the location of plant (CPR).) Rather NASUCA support for the CPR rule is inherently included in its overall support for *all* of the accounting rules included in the June 8th Attachment; in its filed comments, NASUCA discussed certain rules for purposes of emphasis. O'Reilly responded to Commissioner Martin's description of various examples he described as illustrative of Commission staff abuses in that 1997 audit (abuses argued as justifying the prevention of any future such CPR audit). O'Reilly inquired as to whether it would not be preferable to take a different course than elimination of the CPR, e.g., consideration might be given to minimum monetary values ascribed to what is encompassed in such audits (if in fact it can be demonstrated that such abuses occurred) *or* that the nature of the equipment covered be such that minor items (the theoretical counting of paper clips) be excluded, *or* that additional measures of exacting accountability from Commission personnel be created if staff is found to have engaged in abusive practices in the conducting of such audits (if the Commission is found

to lack standard management/personnel authority to correct for such abuses).

- The standard for review in this proceeding is the statutory *mandate* of 47 U.S.C. § 161 (a). The Commission does not have the discretion to disregard that standard. Given that there is no "meaningful economic competition" that warrants elimination of any of the currently applicable accounts in the Attachment as "no longer in the public interest," the record in this proceeding does not support any such elimination.

- Meaningful competition does not exist for local residential ratepayers in this country. At best, some 2%-3% of such customers have even a choice of local providers.

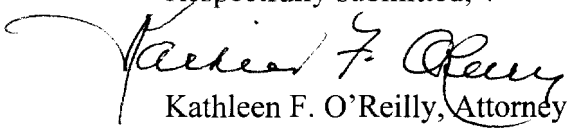
- The millions of consumers represented by NASUCA members would be seriously disadvantaged by the such repeal or the failure to adopt the new accounting rules. As consumer advocates participating in state proceedings on a day-to-day basis (and less frequently in federal proceedings), NASUCA members must rely on the specific and discreet revenue, cost, investment, etc., information identified in these accounts. That ARMIS data is typically key evidence cited by NASUCA members and their consultants in the representation of the residential ratepayer interest in innumerable proceedings such as those related to Universal Service, Sec. 271 authority, UNE pricing, pole attachment fees, the setting of depreciation rates, revenue requirements, etc.

- It is that level of account detail that is also necessary to identify whether the rates of noncompetitive services are providing improper subsidies to competitive services as expressly prohibited by Sec. 254 (k) of the Act. Typically it is captive residential ratepayers who bear the high price of such disallowed subsidies. Only with such data collected can regulators and consumer advocates ensure that costs included in the definition of Universal Service, for example, do not shift to residential ratepayers more than a reasonable share of the costs of the facilities used to provide such services, including the cost of the loop. That protection was formally recognized for the first time in the Telecommunications Act of 1996 (Act). Its goal would be crippled and rendered largely meaningless in the absence of maintaining rules requiring the reporting of such data *as well as* the strict enforcement of such rules.

- With or without such regulatory mandate that ARMIS data be collected, carriers must for other standard business purposes collect and analyze the same information required in these rules. The collection of such data is nothing more than a standard good business practice recognized throughout the business world, i.e., without such information carriers could not track profit margins, plant investment and maintenance needs, necessary work force levels, inventory needs, etc. Thus, there is no substantial burden in providing that same data to the Commission, particularly when such data can now be filed electronically. Once a basic format is designed to comply with these accounting procedures, the cost of ongoing collection and reporting is *de minimus*. Furthermore, the number of accounts encompassed in the Commission rules is but a small fraction of those maintained by these carriers. In any event, the claimed cost savings to the carriers if such account rules were eliminated is minuscule, especially so in light of the ILECs' multi

billion dollar operations and record profits. More importantly, those meager of compliance costs are far outweighed by the cost to ratepayers if such rules were *not* in place and enforced.

Respectfully submitted,



Kathleen F. O'Reilly, Attorney at Law
414 "A" Street, Southeast
Washington, D.C. 20003
Tel: 202.543.5068

On behalf of NASUCA